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02/909,712    09/11/97    CHASE JR    C    CC001

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PM41/1019

EXAMINER

SANTOS, R

ART UNIT

PAPER NUMBER

3628

DATE MAILED:

10/19/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/909,712

Applicant(s)

Chase, Jr.

Examiner

R. Santos

Group Art Unit

3628

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7-16-98.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-11 and 13-20 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-11 and 13-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: In page 7, line 27: “at” should be deleted.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stafford. Stafford shows the claimed limitations of a “massage support apparatus” (10) comprising an “inflatable body supporting structure” (11, 12) having a top surface and a bottom surface, said top and bottom surfaces defining an enclosure therebetween, said inflatable body structure having a head end and a foot end; and a “massage facilitating feature” (15) formed into the inflatable body supporting structure (see Figures 1-3; column 1, lines 35-40 & 51-52 and column 2, lines 1-8). As concerns claim 2, the reference is considered to show the use of an “inflation valve” (17) in Figures 1 & 3 and in column 2, lines 8-17. As concerns claim 3, the reference is considered to

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{ show the use of an “interior face cradle” (central tube 14 positioned on upper section 12 of the support apparatus) disposed proximate to the head end of the inflatable body supporting structure (see Figure 1). As concerns claim 4, the reference discloses a condition wherein the interior face cradle is “inflatable” in column 1, lines 48-49.

With regards to claims 8 and 9, the reference is considered to show a condition wherein the massage facilitating feature further comprises “knee support regions” (webs 15 located on lower section 11 of the support apparatus) and “arm cradling portions” (webs 15 located on upper section 12 of the support apparatus) formed into the inflatable body supporting structure, wherein the knee support regions are disposed proximate to the foot end of the inflatable body supporting structure (see Figure 1). As concerns claim 10, the reference is considered to show a condition wherein the support apparatus is formed of “lightweight foldable material” in column 1, lines 15-18 and in column 2, lines 4-8.

4. Claims 1-10 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard. Howard shows the claimed limitations of a “massage support apparatus” (10) comprising an “inflatable body supporting structure” (20, 22) having a top surface and a bottom surface, said top and bottom surfaces defining an enclosure therebetween, said inflatable body structure having a head end and a foot end; and a “massage facilitating feature” (38) formed into the inflatable body supporting structure (see Figures 1-3; column 2, lines 30-37; and column 3, lines 19-28). As concerns claim 2, the reference is considered to show the use of an “inflation

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valve” (26, 28) in Figures 1, 3, & 4 and in column 2, lines 65-67. As concerns claim 3, 18, and 19, the reference is considered to show the use of an “interior face cradle” (the upper portion of element 38 which is located on element 22) disposed proximate to the head end of the inflatable body supporting structure (see Figure 1). As concerns claims 4 and 18, the reference discloses a condition wherein the interior face cradle is “inflatable” in column 3, lines 19-28. As concerns claim 5 and 20, the reference discloses the use of an “inflation valve” (28) coupled to the interior face cradle (see Figure 1 and column 3, lines 26-28). With regards to claim 6 and with further regards to claim 18, the reference discloses the use of a “faceplate opening” (the uppermost opening 12 located on upper section 22 of the inflatable body supporting structure) disposed near the head end of the inflatable body supporting structure, said faceplate opening formed completely through the inflatable body supporting structure (see Figures 1 & 5). As concerns claim 7 and with further regards to claim 18, the reference is considered to show the use of an “interior body bolster” (40) disposed between the head end and the foot end of the inflatable body supporting structure in Figure 1 and in column 3, lines 19-22. With regards to claims 8 and 9 and with further regards to claim 18, the reference is considered to show a condition wherein the massage facilitating feature further comprises “knee support regions” (openings 12a located in the lower section 20 of the supporting structure) and “arm cradling portions” (openings 12a located in the upper section 22 of the supporting structure) formed into the inflatable body supporting structure, wherein the knee support regions are disposed proximate to the foot end of the inflatable body supporting structure (see Figure 1). As concerns claim 10, the reference is considered to show a

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condition wherein the support apparatus is formed of “lightweight foldable material” in column 1, lines 57-60. Lastly, with further regards to claim 18, the reference discloses the use of an “inflatable foot bolster” (the lower portion element 38 located on element 20) adapted to be disposed proximate to the foot end of the inflatable body supporting structure, and having a top surface and a bottom surface together defining an enclosure therebetween when the inflatable foot bolster is inflated (see Figures 1, 3, & 5 and column 3, lines 22-28).

5. Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,312,987 to Emery. Emery ‘987 shows the claimed limitations of an “inflatable face cradle” (10) and an “inflation valve” (12) coupled to the interior of the face cradle, wherein the inflatable face cradle further comprises a “forehead supporting region” (11), a “first cheek supporting region” (14, 15), and a “second cheek supporting region” (14, 15), and wherein the inflatable face cradle is formed of “lightweight foldable material” (see Figure 3; column 2, lines 60-64 & 71-72; and column 3, line 1).

6. Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Swiss Patent No. 602,056. Swiss ‘056 shows the claimed limitations of an “inflatable foot bolster” (1) and an “inflation valve” (9, 10) coupled to the interior of the foot bolster, wherein the inflatable foot bolster further comprises a “first depression” (8) and a “second depression” (8), wherein the

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bottom surface of the inflatable foot bolster is “flat” (2'), and wherein the foot bolster is formed of “lightweight foldable material” (see Figures 3 & 4 and the Abstract).

### ***Response to Amendment***

In response to Applicant's arguments on pages 4 and 5 of his amendment concerning the Stafford reference, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The examiner respectfully maintains that the Stafford reference discloses the structural limitations of an “inflatable body supporting structure” having a top surface and a bottom surface, and an “inflation valve” coupled to the inflatable body supporting structure as explicitly stated in claims 1 and 2, and that Stafford also teaches the use of a “massage facilitating feature” an inflatable “interior face cradle”, “knee support regions”, and “arm cradling portions” since these limitations do not contain any specific structure as disclosed within the claims. Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

In response to Applicant's arguments on pages 5-8 of his amendment concerning the Howard reference, the examiner respectfully reiterates that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural

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limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The examiner respectfully maintains that the Howard reference discloses the claimed structural limitations of an “inflatable body supporting structure” having a top surface and a bottom surface, and an “inflation valve” coupled to the inflatable body supporting structure as stated in claims 1, 2, and 18, and that the Howard reference also teaches the use of an inflatable “interior face cradle”, an “interior body bolster” “knee support regions”, and “arm cradling portions” since these limitations do not contain any specific structure as disclosed within the claims. Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Furthermore, in response to Applicant’s arguments on pages 9 and 10 of his amendment regarding the Emery ‘987 reference and as stated earlier, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The examiner respectfully maintains that Emery ‘987 discloses the structural limitations of an “inflatable face cradle” having a top surface and a bottom surface, and an “inflation valve” coupled to the interior of the inflatable face cradle as strictly stated within claim 11, and that Emery ‘987 also teaches the use of a “forehead supporting region”, a “first cheek supporting region”, and a “second cheek supporting region” since these limitations do not contain any specific structure as disclosed in claim 11. Again, claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).



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Lastly, in response to Applicant's arguments on pages 10 and 11 of his amendment regarding Swiss Patent No. 602,056, the examiner respectfully reiterates that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The examiner respectfully maintains that Swiss Pat. No. '056 discloses the structural limitations of an "inflatable foot bolster" having a top surface and a bottom surface, and an "inflation valve" coupled to the interior of the inflatable foot bolster as explicitly stated within claim 14, and that Swiss Pat. No. '056 also teaches the structure of a "flat" bottom surface as disclosed in claim 16 (see Figures 3 & 4). As stated earlier, claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Mondays through Fridays from 8:30 a.m. to 6:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-2168.

  
KENNETH J. DORNER  
SUPERVISORY PATENT EXAMINER

R.S.

October 9, 1998